

of Wyler and Fingerson, and further in view of U.S. Patent No. 2,599,076 to Sturgis. Applicants respectfully traverse both rejections.

In maintaining the rejection, the Examiner has stated that Wyler teaches the benefits of having slip-resistant/anti-skid surfaces on the top surface of the upper deck, on the bottom surface of the upper deck, and on the bottom surface of the lower deck. The Examiner then asserts that Fingerson teaches the concept of roughening/scuffing a surface in order to make it into an anti-skid surface, and as a result of the teachings of Wyler and Fingerson, it would have been obvious to one of ordinary skill in the art to modify the pallet of Pigott.

Initially, Applicants respond by pointing out that in contrast to Applicants' claimed invention, Wyler fails to provide any suggestion for creating an anti-skid surface on any of the deck surfaces. More specifically, Wyler only teaches providing an anti-skid surface on runner elements or support elements that extend within channels formed in the upper deck surface. None of the actual deck surfaces are provided with an anti-skid surface arrangement.

Further, Applicants contend that claims 22, 26, 31, and 36 are not directed solely to forming an anti-skid surface by scuffing, but rather to a pallet and method of forming a pallet that includes mechanically scuffing a deck surface (or deck member in claim 36) to define a slip-resistant surface. While Fingerson does disclose roughening or coating a floor grating surface with a material to increase the gripping surface of the floor grating, nowhere in any of the applied references is there any suggestion that a pallet can be formed with a slip-resistant deck surface by mechanically scuffing the surface. Applicants contend that the floor grating arrangement of Fingerson is neither within Applicants' field of endeavor, nor reasonably pertinent to the problem(s) related to forming a pallet with slip-resistant surfaces. See e.g., the discussion of the two-step test for determining whether a reference is nonanalogous in *In re Diminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986).

As clearly set forth on page 3 of Applicants' specification, common anti-slip measures employed with plastic pallets have involved application of anti-slip coatings or placement of anti-slip inserts in strategic locations on the pallet. Clearly Wyler is illustrative of such pallet arrangements. Only Applicants' claimed invention recognizes the advantages of forming a pallet with slip-resistant surfaces by mechanically scuffing the desired deck

surfaces. As such, Applicants contend that independent claims 22, 26, 31, and 36 are patentably distinguishable over the combination of references relied on by the Examiner.

Regarding dependent claims 23-25, 27-30, 32-35, 37, and 38, without conceding the Examiner's position, Applicants contend these claims are allowable due to their respective dependency from claims 22, 26, 31, and 36.

From the foregoing, Applicants submit that the claims are allowable over the references of record in this application, and reconsideration of the claims and passage of the application to issue are courteously solicited. If a telephone conference would expedite allowance or resolve any further questions, such a conference with the undersigned is invited at the convenience of the Examiner.

Applicants reiterate that a Notice of Appeal has been submitted with this response under separate cover letter. A check for \$420.00 has been attached to the Notice of Appeal to cover the fees associated with the Notice of Appeal as well as the Request for a One Month Extension of Time included therewith. No other fees are believed to be due in connection with this response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayments as a result of the filing of this paper to Deposit Account No. 02-3978.

Respectfully submitted,

WILLIAM P. APPS ET AL.

By 
Ralph E. Smith, Reg. No. 35,474
Attorney for Applicant

Date: March 21, 20001

BROOKS & KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351